

§ 501.7

reservation will appear, where practicable, in any patent, domestic or foreign, which may issue on such invention. Reference is made to section 15 of the Federal Technology Transfer Act of 1986 (15 U.S.C. 3710d) which requires a Government agency to allow the inventor to retain title to any covered invention when the agency does not intend to file a patent application or otherwise promote commercialization.

(3) In applying the provisions of paragraphs (a)(1) and (2) of this section to the facts and circumstances relating to the making of a particular invention, it shall be presumed that an invention made by an employee who is employed or assigned:

(i) To invent or improve or perfect any art or process, machine, design, manufacture, or composition of matter;

(ii) To conduct or perform research, development work, or both,

(iii) To supervise, direct, coordinate, or review Government financed or conducted research, development work, or both, or

(iv) To act in a liaison capacity among governmental or non-governmental agencies or individuals engaged in such research or development work, falls within the provisions of paragraph (a)(1) of this section, and it shall be presumed that any invention made by any other employee falls within the provisions of paragraph (a)(2) of this section. Either presumption may be rebutted by a showing of the facts and circumstances in the case and shall not preclude a determination that these facts and circumstances justify leaving the entire right, title and interest in and to the invention in the Government employee, subject to law.

(4) In any case wherein the Government neither:

(i) Obtains the entire right, title and interest in and to an invention pursuant to the provisions of paragraph (a)(1) of this section nor

(ii) Reserves a nonexclusive, irrevocable, royalty-free license in the invention, with power to grant licenses for all governmental purposes, pursuant to the provisions of paragraph (a)(2) of this section,

the Government shall leave the entire right, title and interest in and to the

37 CFR Ch. IV (7-1-14 Edition)

invention in the Government employee, subject to law.

[53 FR 39735, Oct. 11, 1988, as amended at 61 FR 40999, Aug. 7, 1996]

§ 501.7 Agency determination.

(a) If the agency determines that the Government is entitled to obtain title pursuant to § 501.6(a)(1) and the employee does not appeal, no further review is required.

(b) In the event that a Government agency determines, pursuant to paragraph (a)(2) or (a)(4) of § 501.6, that title to an invention will be left with the employee, the agency shall notify the employee of this determination. In cases pursuant to § 501.6(a)(2) where the Government's insufficient interest in the invention is evidenced by its decision not to file a patent application, the agency may impose on the employee any one or all of the following conditions or any other conditions that may be necessary in a particular case:

(1) That a patent application be filed in the United States and/or abroad, if the Government has determined that it has or may need to practice the invention;

(2) That the invention not be assigned to any foreign-owned or controlled corporation without the written permission of the agency; and

(3) That any assignment or license of rights to use or sell the invention in the United States shall contain a requirement that any products embodying the invention or produced through the use of the invention be substantially manufactured in the United States. The agency shall notify the employee of any conditions imposed.

(c) In the case of a determination under either paragraph (a) or (b) of this section, the agency shall promptly provide the employee with:

(1) A signed and dated statement of its determination and reasons therefor; and

(2) A copy of 37 CFR part 501.

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§ 501.8 Appeals by employees.

(a) Any Government employee who is aggrieved by a Government agency determination pursuant to §§ 501.6(a)(1) or